

REMARKS

The Office Action dated September 17, 2008, has been carefully considered. The Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 1-21, 23, 24, and 28 were pending. Claims 1-21, 23, and 24 have been allowed, and Claim 28 has been rejected. Claim 28 has now been cancelled without prejudice. Claim 31 has been newly added which is fully supported by Applicants' description and therefore does not introduce new matter. As a result of the present amendment, Claims 1-21, 23, 24, and 31 remain pending in the application.

Claim 28 stands rejected under 35 U.S.C. 112, first paragraph, for lack of enablement.

The Applicants have cancelled Claim 28 without prejudice. New Claim 31 is directed to pharmaceutical compositions comprising a compound of Claim 1 and a second antihyperglycemic agent selected from the group consisting of metformin, pioglitazone, and rosiglitazone. These three specific antihyperglycemic agents are disclosed in Applicants' specification for combination with a compound of Claim 1. Metformin is a biguanide widely used in the clinic for the treatment of Type 2 diabetes. Pioglitazone (ACTOS™) and rosiglitazone (AVANDIA™) are PPAR γ agonists also marketed for the treatment of Type 2 diabetes. Since Applicants' specification does define these three compounds intended for use as an additional active ingredient, the Applicants respectfully request withdrawal of the section 112, first paragraph, rejection.

Claim 28 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The Applicants have cancelled Claim 28 without prejudice. New Claim 31 is directed to pharmaceutical compositions comprising a compound of Claim 1 and a second antihyperglycemic agent selected from the group consisting of metformin, pioglitazone, and rosiglitazone. These three specific antihyperglycemic agents are disclosed in Applicants' specification for combination with a compound of Claim 1. Metformin is a biguanide widely used in the clinic for the treatment of Type 2 diabetes. Pioglitazone (ACTOS™) and

Int. Appln. No.: PCT/US04/014642
US Appln. No.: 10/556,805
US Filing Date: Nov. 14, 2005
Case No.: 21404P
Page No.: 14

rosiglitazone (AVANDIA™) are PPAR γ agonists also marketed for the treatment of Type 2 diabetes. Since new Claim 31 does particularly point out and distinctly claim the subject matter which Applicants regard as their invention, the Applicants respectfully request withdrawal of the section 112, second paragraph, rejection.

The Applicants believe that the two section 112 objections have been overcome by amendment and argument, and they therefore earnestly solicit an early notice of allowability of Claim 31.

Respectfully submitted,

By 

Philippe L. Durette

Reg. No. 35,125

Attorney for Applicants

Merck & Co., Inc.

P.O. Box 2000

Rahway, NJ 07065-0907

(732) 594-4568

Date: September 30, 2008

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

MERCK & CO., INC.

By Samela Spalding Date 9-30-08